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SUBJECT: UKRAINE: JUNE 27 DOMESTIC POLITICAL SCENE UPDATE -
HEADING INTO THE SUMMER BREAK AND ELECTION PREP

Classified By: Ambassador, reason 1.4 (b,d)

¶1. (SBU) Summary: In advance of the long (June 28 Constitution Day) weekend, Ukraine's political scene sputtered slowly forward towards summer holidays and election campaigns. President Yushchenko and PM Yanukovych spent significant time out of Kyiv, meeting twice at Boryspil airport to discuss the way forward. The newly seated Central Election Commission (CEC) finally achieved a quorum June 25 and distributed regional oversight portfolios, but it did not act on canceling the 2006 Our Ukraine (OU) electoral bloc list. On June 26, the Constitutional Court (CC) announced it had rejected MP petitions appealing Yushchenko's decrees dismissing three judges appointed by Kuchma on the Presidential quota; this move should help clarify the confusing staffing on the court, including who will act as chair. On June 27, the Rada, which Yushchenko and many consider inglorious due to the mass resignations of opposition MPs, concluded its summer session, with Speaker Moroz failing in his gambit to gain first reading consideration of constitutional amendments that would further strip the presidency of powers in favor of the Rada and Cabinet of Ministers. Internal bickering about a potential electoral megabloc between OU, Yuri Lutsenko's People's Self Defense (PSD), and the Pravytsya (Union of Right Forces) continues; current polls suggest five political forces would clear a three-percent threshold in new elections: Regions, BYuT, OU, Communists, and PSD. End Summary

Central Election Commission: coalition majority scores

¶2. (SBU) On June 25, the newly seated CEC held its first plenary session with the minimum quorum of ten commissioners present. The eight coalition-associated commissioners voted for a plan assigning oversight of various provinces to specific commissioners; the coalition-associated commissioners will oversee provinces representing the majority of Ukraine's population, including the eastern and southern provinces which have supported Yanukovych/Regions in the 2004 and 2006 election cycles. Opposition-associated commissioner Pysarenko argued that coalition commissioners would oversee regions comprising 70% of all voters and complained to reporters afterwards that the majority refused to incorporate any opposition-suggested alterations to the distribution.

¶3. (C) Note: The CEC did not act on the politically related issue some in the coalition, including Speaker Moroz and Justice Minister Lavrynovych, claim is required to provide full legal basis for new elections: the cancellation of the 2006 Our Ukraine electoral bloc list, which would make it impossible to name replacements to the Rada for the OU MPs who resigned earlier in June. Some commentators have suggested the lack of final resolution may be an intentional

effort to avoid lending unambiguous legal legitimacy to a new round of elections. CEC Chair Shapoval told Ambassador in mid-June that there was no clear legal basis for him to act, given recent changes in legislation, and that a political decision would be required. Yushchenko, Yanukovych, and Shapoval met June 20 to address CEC-related issues, and it was hoped that the meeting would clear a way forward, including on the OU cancellation issue. That did not happen June 25. Yushchenko and Yanukovych met briefly at Boryspil Airport after Yushchenko's return from Turkey June 26; press reports indicated that the CEC was one of the issues discussed, though no details were available.

Constitutional Court - moving towards personnel clarity?

¶4. (SBU) Ever since Yushchenko signed decrees in late April/early May dismissing the three judges on the Presidential quota appointed by his predecessor Kuchma and the trio (Stanik, Pshenychny, Ivashchenko) refused to vacate the court, the court has been beset by the question of who legitimately sits on and even chairs the court. On June 26, the Court's press service announced that the Court had rejected June 19 petitions by MPs appealing against Yushchenko's right to dismiss the three judges (note: the Constitution as amended December 8, 2004 gives the president the right to appoint and dismiss a third of the 18 judges on the court). Speaking at a June 26 congress of judges, Ex-Chair Dombrovsky complained of unprecedented pressure on the court by all sides.

¶5. (C) Comment: The Court decision rejecting the appeals should clarify the personnel situation on the court, but the next Rada will still need to consider/seal Yushchenko's nominees, and the court will likely remain split and

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indecisive on politically sensitive issues.

The Rada closes: Moroz' parting shot at Yushchenko fails

¶6. (SBU) The Rada closed its current session mid-day June 27 with PM Yanukovych and most of the Cabinet in attendance; presidential nominees at Foreign Affairs and Defense stayed away, in keeping with Yushchenko's contention that the Rada is inquorate and no longer legitimate. The morning proceedings began with ad hominem open mike attacks on Yushchenko from representatives of all three coalition parties. Speaker Moroz had tabled a series of proposed constitutional amendments late June 26 for potential first reading consideration in the Rada's final scheduled plenary session June 27; the amendments would have stripped the President's right to name high-ranking military officers, security service personnel, and governors, eliminated one of the grounds to dismiss the Rada, and made it easier to impeach the President by removing the requirement for Constitutional Court review. However, Regions resisted Moroz' gambit; PM Yanukovych, in his brief remarks during the closing ceremony, indicated constitutional amendments should be made when there was more stability in the country and after all political forces and international experts had time to consider the proposals.

Electoral Preparations: Regions, BYuT focused, OU distracted

¶7. (SBU) There are increasing signs of parties gearing up for elections, with Regions and BYuT more focused; in contrast, Our Ukraine remains distracted with internecine quarrels. When we asked young rising Regions MP Yuriy Miroshnychenko where he would be spending his vacation after the June 27 conclusion of the Rada, he smiled in replying: "27 provinces." Both BYuT MPs (Shaho, Syvulsky) who normally meet with us as part of a regular multi-party gathering of MPs whom we sent to NATO HQ last November were last minute

cancellations for a June 25 lunch, due to intensified party organizational work in their home provinces of Dnipropetrovsk and Ternopil.

¶8. (SBU) President Yushchenko, in Turkey for Black Sea Economic Cooperation (BSEC) meetings, and Presidential Secretariat head Baloha both sent rhetorical signals June 26

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in favor of a wide "megabloc" formed around OU and Lutsenko's PSD. Lutsenko reiterated OU and PSD's common views, challenged Pravytsya to join or fade into irrelevancy on its own, but then added that the bloc still has not agreed on a name, final percentages of slots on the list, or places on the list - issues outstanding since early June. OU MPs Prokopovych and Ruslana Lyzhychko separately told Ambassador June 19 that OU and PSD almost certainly would end up running separately, though they disagreed on whether that would be a net plus (Prokopovych) or minus (Ruslana). Polls currently suggest five parties would clear the three percent threshold: Regions, BYuT, OU, Communists, and PSD.

¶9. (SBU) At the June 25 MPs lunch, Ambassador urged parties to consider an informal election "code of conduct" in which party leaders would publicly endorse refraining from politicizing traditionally polarizing issues such as NATO and language use during the upcoming campaign. MPs from Regions (Miroshnychenko, Vecherko) and Our Ukraine (Prokopovych, Ruslana Lyzhychko, Yakovyna) agreed this would be ideal, but suggested that fringe forces like the Communists and Natalya Vitrenko would still bring NATO into electoral campaign play.

Miroshnychenko suggested that the Universal, and its commitment to put NATO accession to a referendum vote, represented a common position; in reply, Yakovyna reminded Miroshnychenko that the draft OU-Regions coalition agreement initialed in June 2006 had more forward-leaning language on NATO, and Prokopovych added that Regions had backed away from the implied deal during Universal discussions to endorse a Membership Action Plan (MAP), since that was separate from accession/referendum discussions. Ruslana called us June 26 to say that she had briefed Baloha on the code of conduct proposal.

¶10. (U) Visit Embassy Kyiv's classified website:
www.state.sgov.gov/p/eur/kiev.
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